

118TH CONGRESS
1ST SESSION

S. 3128

To streamline the reporting of violations against immigrant children in Federal custody, to provide protections for unaccompanied immigrant children, and to ensure safe release to sponsors, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 25, 2023

Mr. DURBIN (for himself, Ms. CORTEZ MASTO, Ms. HIRONO, Mrs. GILLIBRAND, Mr. MERKLEY, Mr. MENENDEZ, Mr. BLUMENTHAL, Ms. BUTLER, Mr. WELCH, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To streamline the reporting of violations against immigrant children in Federal custody, to provide protections for unaccompanied immigrant children, and to ensure safe release to sponsors, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Protecting Unaccompanied Children Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—STREAMLINING REPORTING OF VIOLATIONS AGAINST
IMMIGRANT CHILDREN IN FEDERAL CUSTODY

- Sec. 101. Definitions.
 Sec. 102. Office of the Ombudsperson for Immigrant Children in Federal Custody.
 Sec. 103. Data collection.
 Sec. 104. Expert advisory committee.
 Sec. 105. Coordination with Department of Homeland Security.
 Sec. 106. Rule of construction.

TITLE II—PROTECTIONS FOR IMMIGRANT CHILDREN

Subtitle A—Unaccompanied Alien Children in Immigration Proceedings

- Sec. 201. Legal representation in removal proceedings.
 Sec. 202. Motions to reopen.

Subtitle B—Access to Services

- Sec. 211. Clarification of unaccompanied child determination procedures.
 Sec. 212. Improving access to post-release services.
 Sec. 213. State-level coordinators for unaccompanied children's services.
 Sec. 214. Assistance for children and families separated under zero tolerance.

Subtitle C—Facilities Housing Unaccompanied Alien Children

- Sec. 221. Technical assistance for community-based care providers.
 Sec. 222. Standards and compliance.

Subtitle D—Child Welfare at the Border and Prevention of Family
Separation

- Sec. 231. Child welfare training at the border.
 Sec. 232. Preventing family separation of unaccompanied children.

TITLE III—ENSURING SAFE RELEASE TO SPONSORS

- Sec. 301. Ensuring safe release to sponsors who are not parents or legal guardians.
 Sec. 302. Expansion and evaluation of home studies.
 Sec. 303. Requirements for child and sponsor case management system.

TITLE IV—PROTECTIONS AND ACCESS TO CERTAIN SERVICES
FOR SPECIAL IMMIGRANT JUVENILES AND OTHER VULNERABLE
IMMIGRANTS

- Sec. 401. Eliminating annual employment-based visa caps for special immigrant juveniles.
 Sec. 402. Elimination of annual numerical limitation on U visas.
 Sec. 403. Access to Medicaid for certain children granted status.

TITLE V—STOPPING CHILD LABOR TRAFFICKING

- Sec. 501. Victims of serious labor and employment violations or crime.
 Sec. 502. Labor enforcement actions.

TITLE VI—GENERAL PROVISIONS

Sec. 601. Authorization of appropriations.

Sec. 602. Supplemental appropriation.

1 **TITLE I—STREAMLINING RE-**
2 **PORTING OF VIOLATIONS**
3 **AGAINST IMMIGRANT CHIL-**
4 **DREN IN FEDERAL CUSTODY**

5 **SEC. 101. DEFINITIONS.**

6 In this title:

7 (1) **COMMITTEE.**—The term “Committee”
8 means the expert advisory committee established
9 under section 104(a).

10 (2) **DIRECTOR.**—The term “Director” means
11 the Director of the Office of Refugee Resettlement.

12 (3) **FACILITY.**—The term “facility”—

13 (A) means a location at which 1 or more
14 immigrant children are detained by the Govern-
15 ment or held in Government custody; and

16 (B) includes—

17 (i) an Office of Refugee Resettlement
18 facility; and

19 (ii) a Department of Homeland Secu-
20 rity facility, including—

21 (I) a U.S. Customs and Border
22 Protection temporary holding facility
23 and transportation contractor;

1 (II) a U.S. Immigration and Cus-
2 toms Enforcement family detention
3 facility;

4 (III) a U.S. Immigration and
5 Customs Enforcement juvenile facility;

6 (IV) a location operated by a pri-
7 vate entity, including a hotel room;
8 and

9 (V) any other location at which
10 the Department of Homeland Security
11 detains or holds in custody an immi-
12 grant child.

13 (4) FLORES SETTLEMENT AGREEMENT.—The
14 term “Flores settlement agreement” means the stip-
15 ulated settlement agreement filed in the United
16 States District Court for the Central District of
17 California on January 17, 1997 (CV 85–4544–
18 RJK).

19 (5) IMMIGRANT CHILD.—The term “immigrant
20 child” means an alien (as defined in section 101(a)
21 of the Immigration and Nationality Act (8 U.S.C.
22 1101(a)) under the age of 18 years.

23 (6) IN-NETWORK FACILITY.—The term “in-net-
24 work facility” means a facility operated by an Office

1 of Refugee Resettlement grantee, subgrantee, con-
2 tractor, or subcontractor.

3 (7) OFFICE OF REFUGEE RESETTLEMENT FA-
4 CILITY.—The term “Office of Refugee Resettlement
5 facility”—

6 (A) means—

7 (i) a shelter operated by an Office of
8 Refugee Resettlement grantee, subgrantee,
9 contractor, or subcontractor to hold immi-
10 grant children;

11 (ii) a staff secure facility, a secure
12 care facility, a residential treatment center,
13 transitional foster care housing, or long-
14 term foster care so operated; or

15 (iii) any other location operated by
16 the Office of Refugee Resettlement to hold
17 immigrant children; and

18 (B) includes an in-network facility and an
19 out-of-network facility.

20 (8) OMBUDSPERSON.—The term
21 “Ombudsperson” means the ombudsperson ap-
22 pointed under section 102(c).

23 (9) OUT-OF-NETWORK FACILITY.—The term
24 “out-of-network facility” means a facility at which
25 an immigrant child is placed as a result of an Office

1 of Refugee Resettlement determination that there is
2 no care provider available among in-network facili-
3 ties to provide specialized services required by the
4 immigrant child, such as medical or mental health
5 support.

6 (10) UNOBSTRUCTED ACCESS.—The term “un-
7 obstructed access” means—

8 (A) with respect to a facility, the ability to
9 enter the facility, including unannounced, to
10 tour and physically visit all areas of the facility;
11 and

12 (B) with respect to information, the ability
13 to obtain requested information in a timely
14 manner and with the full cooperation of the
15 Secretary of Health and Human Services and
16 the Secretary of Homeland Security, as applica-
17 ble.

18 (11) WORKING GROUP.—The term “Working
19 Group” means the interagency working group estab-
20 lished under section 105(b).

21 **SEC. 102. OFFICE OF THE OMBUDSPERSON FOR IMMI-**
22 **GRANT CHILDREN IN FEDERAL CUSTODY.**

23 (a) ESTABLISHMENT.—There is established, within
24 the Department of Health and Human Services, an Office
25 of the Ombudsperson for Immigrant Children in Federal

1 Custody (referred to in this section as the “Office of the
2 Ombudsperson”)—

3 (1) to endorse and support the principle that
4 family separation and detention are generally not in
5 a child’s best interest; and

6 (2) in cases in which Federal detention or cus-
7 tody is required—

8 (A) to ensure that immigrant children are
9 only detained or held in custody by the Federal
10 Government in the least restrictive setting;

11 (B) to advocate for the quick, safe, and ef-
12 ficient release of immigrant children from Fed-
13 eral detention or custody whenever possible; and

14 (C) in any case in which an immigrant
15 child is held in Department of Homeland Secu-
16 rity custody together with his or her family
17 unit, to advocate for the release of the child and
18 concurrent release of the parent or legal guard-
19 ian of the child.

20 (b) INDEPENDENCE.—The Office of the
21 Ombudsperson shall be—

22 (1) an impartial, confidential resource to ensure
23 the best interest of children in Federal custody; and

24 (2) fully independent of—

1 (A) the Office of Refugee Resettlement of
2 the Department of Health and Human Services;
3 and

4 (B) the Department of Homeland Security.

5 (c) OMBUDSPERSON.—

6 (1) IN GENERAL.—The Office of the
7 Ombudsperson shall be headed by an
8 Ombudsperson, who shall be appointed by, and re-
9 port directly to, the Secretary of Health and Human
10 Services.

11 (2) QUALIFICATIONS.—The individual ap-
12 pointed as Ombudsperson shall have demonstrated
13 experience in—

14 (A) immigration law; and

15 (B) child advocacy or child welfare.

16 (3) DUTIES AND AUTHORITIES.—

17 (A) MONITORING.—On a regular basis, the
18 Ombudsperson shall monitor facilities, including
19 licensed facilities that are not licensed by a
20 State, for compliance with all applicable laws,
21 policies, and standards, including—

22 (i) the Flores settlement agreement;

23 (ii) section 235 of the William Wilber-
24 force Trafficking Victims Protection Reau-
25 thorization Act of 2008 (8 U.S.C. 1232);

1 (iii) the applicable provisions of the
2 Prison Rape Elimination Act of 2003 (34
3 U.S.C. 30301 et seq.);

4 (iv) applicable policies of U.S. Cus-
5 toms and Border Protection relating to the
6 standard of care for individuals in Federal
7 custody; and

8 (v) Office of Refugee Resettlement
9 policies relating to the care and custody of
10 unaccompanied alien children.

11 (B) INVESTIGATIONS.—

12 (i) IN GENERAL.—The Ombudsperson
13 shall investigate—

14 (I) claims of abuse, neglect, or
15 mistreatment of immigrant children,
16 by the Government or any other enti-
17 ty, while in Government custody;

18 (II) complaints against foster
19 care providers, including foster care
20 providers under State oversight; and

21 (III) potential violations of re-
22 lated laws and standards.

23 (ii) REPORTING OF STATE LICENSING
24 VIOLATIONS.—If, in the course of an inves-
25 tigation under clause (i)(II), the

1 Ombudsperson discovers a State licensing
2 violation, the Ombudsperson shall report
3 the violation to the child welfare licensing
4 agency of the applicable State.

5 (iii) VIOLATIONS IN UNLICENSED FA-
6 CILITIES.—

7 (I) IN GENERAL.—The
8 Ombudsperson shall monitor any po-
9 tential violation of law, policy, or
10 standard in a facility that is not li-
11 censed by a State on a regular basis.

12 (II) REPORT.—If, in the course
13 of monitoring a facility described
14 under subclause (I), the
15 Ombudsperson determines that a vio-
16 lation of law, policy, or standard has
17 occurred, not later than 30 days after
18 making such determination, the
19 Ombudsperson shall report the viola-
20 tion the Secretary of Health and
21 Human Services for further action.

22 (C) STAKEHOLDER MEETINGS.—Not less
23 frequently than quarterly, the Ombudsperson
24 shall invite community stakeholders, Flores set-
25 tlement agreement class counsel, and, as appli-

1 cable, the Flores settlement agreement court-
2 appointed monitor to participate in a meeting—

3 (i) to ensure that the Ombudsperson
4 is aware of stakeholder concerns and prior-
5 ities; and

6 (ii) to provide feedback on stakeholder
7 requests.

8 (D) INDIVIDUAL CASE ASSISTANCE.—

9 (i) IN GENERAL.—The Ombudsperson
10 may offer individual case assistance to an
11 immigrant child who is in Government cus-
12 tody if the case of the immigrant child is
13 long-pending or otherwise requires expe-
14 dited processing or elevated attention, as
15 determined by the Ombudsperson.

16 (ii) COMMUNICATION.—To ensure a
17 complete understanding of the status of a
18 case described in clause (i), the
19 Ombudsperson may communicate with—

20 (I) the immigrant child con-
21 cerned;

22 (II) the family members and po-
23 tential sponsor of such child; and

24 (III) the child advocate, legal
25 counsel, Office of Refugee Resettle-

1 ment case manager and Federal field
2 specialist, and any other relevant indi-
3 vidual charged with care provision,
4 case management, or case coordina-
5 tion of the immigrant child concerned.

6 (E) SUBPOENA AUTHORITY.—Subject to
7 the approval of the Secretary of Health and
8 Human Services, the Ombudsperson may—

9 (i) issue a subpoena to require the
10 production of all information, reports, and
11 other documentary evidence necessary to
12 carry out the duties of the Ombudsperson;
13 and

14 (ii) invoke the aid of any appropriate
15 court of the United States.

16 (F) REPORTING MECHANISMS.—

17 (i) IN GENERAL.—The Ombudsperson
18 shall establish and maintain—

19 (I) a toll-free telephone number
20 to receive complaints and reports of
21 matters for investigation; and

22 (II) an email address to receive
23 such complaints and reports.

24 (ii) AVAILABILITY.—The
25 Ombudsperson shall ensure that—

1 (I) in each facility—

2 (aa) such telephone number
3 is made available in a prominent,
4 visible, and public location in a
5 common area of the facility; and

6 (bb) a telephone is accessible
7 to each immigrant child;

8 (II) such email address is made
9 available to sponsors, Flores settle-
10 ment agreement class counsel, legal
11 services providers and child advocates
12 who serve such immigrant children,
13 and State-level coordinators appointed
14 under paragraph (7) of section 235(c)
15 of the William Wilberforce Trafficking
16 Victims Protection Reauthorization
17 Act of 2008 (8 U.S.C. 1232(e)), as
18 added by section 213; and

19 (III) in each facility, such tele-
20 phone number and email address are
21 made available, in a prominent, visi-
22 ble, and public location in a common
23 area of the facility, to all individuals
24 employed, contracted, or otherwise
25 tasked with the care and custody of

1 children by the Secretary of Health
2 and Human Services so that such in-
3 dividuals may report—

4 (aa) any potential violation
5 of law, policy, or standard relat-
6 ing to immigrant children in Fed-
7 eral custody; or

8 (bb) any other claim of
9 abuse, neglect, or mistreatment
10 of immigrant children.

11 (iii) REVIEW AND EVALUATION.—

12 (I) IN GENERAL.—Not later than
13 2 years after the date of the enact-
14 ment of this Act, and every 2 years
15 thereafter, the Ombudsperson shall
16 complete a review of the reporting
17 mechanisms under this subparagraph
18 to evaluate whether such mechanisms
19 are sufficient to ensure the oversight
20 and monitoring required by this title.

21 (II) REPORT.—Not later than 30
22 days after the completion of each re-
23 view required by subclause (I), the
24 Ombudsperson shall submit to Con-
25 gress a report on the results of the re-

1 view that includes, in the case of a de-
2 termination that such mechanisms are
3 insufficient, recommendations for
4 their improvement.

5 (G) REPORT TO CONGRESS.—

6 (i) IN GENERAL.—Not later than Sep-
7 tember 30 each year, the Ombudsperson
8 shall submit to Congress a report on the
9 accomplishments and challenges of the Of-
10 fice of the Ombudsperson during the fiscal
11 year ending on that date.

12 (ii) ELEMENTS.—Each report re-
13 quired by clause (i) shall include, for the
14 applicable fiscal year, the following:

15 (I) A summary of the status of
16 immigrant children in Federal Gov-
17 ernment custody that highlights
18 broader trends and recommendations
19 for future action.

20 (II) Statistical information on
21 immigrant children in Federal Gov-
22 ernment custody, together with an
23 analysis of such information.

24 (III) A summary of complaints
25 received and proposed resolutions.

1 (IV) A description of the inves-
2 tigations into claims of abuse, neglect,
3 or mistreatment of immigrant children
4 in Federal Government custody, in-
5 cluding a summary of the results of
6 such investigations.

7 (V) Any attempt by the Secretary
8 of Homeland Security, the Secretary
9 of Health and Human Services, or
10 any entity to which the authority of
11 the Secretary of Homeland Security
12 or the Secretary of Health and
13 Human Services is delegated, to inter-
14 fere with the independence of the Of-
15 fice of the Ombudsperson.

16 (VI) A description of the objec-
17 tives of the Office of the
18 Ombudsperson for the next fiscal
19 year.

20 (H) ADDITIONAL DUTIES.—The
21 Ombudsperson shall—

22 (i) conduct a review of data collection,
23 as described in section 103(a);

24 (ii) establish the Committee, as de-
25 scribed in section 104; and

1 (iii) enter into a memorandum of un-
2 derstanding, as described in section
3 105(a).

4 (d) ACCESS TO FACILITIES.—The Secretary of
5 Health and Human Services and the Secretary of Home-
6 land Security shall ensure—

7 (1) unobstructed access by the Ombudsperson
8 to any facility; and

9 (2) the ability of the Ombudsperson—

10 (A) to monitor any facility; and

11 (B) to meet confidentially with—

12 (i) staff of any facility;

13 (ii) employees, grantees, contractors
14 of the Office of Refugee Resettlement and
15 the Department of Homeland Security;
16 and

17 (iii) any immigrant child in Federal
18 Government custody, after notification of
19 the immigrant child’s counsel, as applica-
20 ble.

21 (e) ACCESS TO INFORMATION.—The Secretary of
22 Health and Human Services shall ensure unobstructed ac-
23 cess by the Ombudsperson to—

24 (1) the case files, records, reports, audits, docu-
25 ments, papers, recommendations, or any other perti-

1 nent information relating to the care and custody of
2 an immigrant child; and

3 (2) the written policies and procedures of all
4 Office of Refugee Resettlement facilities.

5 (f) REQUESTS FOR INFORMATION.—

6 (1) IN GENERAL.—The Ombudsperson may re-
7 quest from the Secretary of Health and Human
8 Services or the Secretary of Homeland Security, or
9 any entity to which the authority of the Secretary of
10 Health and Human Services or the Secretary of
11 Homeland Security has been delegated, any informa-
12 tion or assistance required to carry out this title. In-
13 formation and assistance requested pursuant to this
14 paragraph shall be provided to the Ombudsperson in
15 a timely manner.

16 (2) UNREASONABLE REFUSAL.—If upon re-
17 quest for information by the Ombudsperson, an enti-
18 ty or agency described in paragraph (1) unreason-
19 ably refuses to provide, or otherwise does not pro-
20 vide, as determined by the Ombudsperson, such in-
21 formation or assistance requested by the
22 Ombudsperson, the Ombudsperson shall, without
23 delay—

24 (A) in the case of an unreasonable refusal
25 by the Department of Health and Human Serv-

1 ices, report to the Secretary of Health and
2 Human Services the circumstances of such re-
3 fusal;

4 (B) in the case of an unreasonable refusal
5 by the Department of Homeland Security, re-
6 port to the Secretary of Homeland Security the
7 circumstances of such refusal; or

8 (C) in the case of an unreasonable refusal
9 by the Secretary of Health and Human Services
10 or the Secretary of Homeland Security, report
11 on the circumstances of such refusal to—

12 (i) the Committee on the Judiciary
13 and the Committee on Homeland Security
14 and Governmental Affairs of the Senate;
15 and

16 (ii) the Committee on the Judiciary
17 and the Committee on Homeland Security
18 of the House of Representatives.

19 **SEC. 103. DATA COLLECTION.**

20 (a) INDEPENDENT REVIEW BY OMBUDSPERSON.—

21 (1) IN GENERAL.—The Ombudsperson shall
22 regularly review data collected by the Secretary of
23 Health and Human Services and the Secretary of
24 Homeland Security relating to immigrant children in
25 facilities.

1 (2) COLLABORATION REQUIRED.—The Sec-
2 retary of Health and Human Services and the Sec-
3 retary of Homeland Security shall provide the
4 Ombudsperson unobstructed access to—

5 (A) real-time custody and detention data
6 for each immigrant child detained by the Gov-
7 ernment or held in Government custody, includ-
8 ing—

9 (i) the location and level of placement;

10 (ii) biographical information, includ-
11 ing full name, date of birth, country of citi-
12 zenship, and alien number;

13 (iii) all locations at which the immi-
14 grant child has been detained or held in
15 custody;

16 (iv) the dates and times the immi-
17 grant child is booked in and booked out of
18 any facility;

19 (v) transfer and discharge informa-
20 tion; and

21 (vi) whether the child—

22 (I) has an attorney of record;

23 and

24 (II) has been appointed an inde-
25 pendent child advocate under section

1 235(c)(6) of the William Wilberforce
2 Trafficking Victims Protection Reau-
3 thorization Act of 2008 (8 U.S.C.
4 1232(e)(6)); and

5 (B) Department of Homeland Security and
6 Department of Health and Human Services
7 data personnel for the purpose of reviewing
8 data collection and integrity issues.

9 (b) OFFICE OF REFUGEE RESETTLEMENT DATA
10 COLLECTION SYSTEM.—

11 (1) IN GENERAL.—To support the data collec-
12 tion and monitoring duties of the Ombudsperson and
13 to facilitate public monitoring, the Director shall de-
14 velop a data collection system that collects and
15 maintains the following information:

16 (A) The total number of immigrant chil-
17 dren held in custody by the Secretary of Health
18 and Human Services.

19 (B) The average and median number of
20 days immigrant children remain in such cus-
21 tody.

22 (C) The average and median number of
23 days immigrant children stay in an Office of
24 Refugee Resettlement facility.

1 (D) The number of immigrant children dis-
2 charged to sponsors, disaggregated by sponsor
3 category, placement level, specific Office of Ref-
4 ugee Resettlement facility.

5 (E) The sponsor categories of immigrant
6 children held at each Office of Refugee Reset-
7 tlement facility, disaggregated by placement
8 level.

9 (F) The number and percentage of immi-
10 grant children held in an Office of Refugee Re-
11 settlement facility with more than 25 immi-
12 grant children, disaggregated by placement
13 level.

14 (G) The percentage of filled capacity
15 across all Office of Refugee Resettlement facili-
16 ties.

17 (H) The total number of children held at
18 out-of-network facilities, disaggregated by
19 placement level.

20 (I) For each Office of Refugee Resettle-
21 ment facility—

22 (i) the percentage of filled capacity;

23 (ii) the maximum number of available
24 beds;

1 (iii) the number and percentage of im-
2 migrant children with disabilities,
3 disaggregated by placement level;

4 (iv) the number and percentage of im-
5 migrant children receiving mandatory
6 home studies, discretionary home studies,
7 and post-release services, disaggregated by
8 placement level; and

9 (v) the number and percentage of im-
10 migrant children on a waitlist to receive
11 post-release services.

12 (2) ACCESSIBILITY.—All information collected
13 and maintained by the data collection system re-
14 quired by paragraph (1)—

15 (A) searchable; and

16 (B) disaggregated by country of citizen-
17 ship, race, gender, primary language, age, and,
18 as applicable, ethnicity.

19 (3) PUBLICATION.—Not later than the 15th of
20 each month, the Director shall make the data col-
21 lected under paragraph (1) for the preceding month
22 available to the Ombudsperson.

23 (c) PROHIBITION ON CERTAIN USES OF INFORMA-
24 TION.—Information collected under this section may not

1 be used for immigration enforcement or law enforcement
2 purposes.

3 (d) **PRIVACY PROTECTIONS.**—Any record collected,
4 stored, received, or published under this section shall be—

5 (1) collected, stored, received, or published in a
6 manner that protects the privacy of any individual
7 whose information is included in such data;

8 (2) de-identified or anonymized in a manner
9 that protects the identity of any individual whose in-
10 formation is included in such data; and

11 (3)(A) limited in use for the purpose of car-
12 rying out the duties of the Office of the
13 Ombudsperson; and

14 (B) protected from any other—

15 (i) internal use by any entity that collects,
16 stores, or receives the record; or

17 (ii) inappropriate use.

18 **SEC. 104. EXPERT ADVISORY COMMITTEE.**

19 (a) **ESTABLISHMENT.**—Not later than 90 days after
20 the date of the enactment of this Act, the Ombudsperson
21 shall establish an expert advisory committee to assist the
22 Ombudsperson in—

23 (1) identifying relevant trends relating to immi-
24 grant children in Government custody;

1 (2) conducting fact-finding missions and inves-
2 tigations of facilities; and

3 (3) ensuring Government and private contractor
4 compliance with applicable law and standards for fa-
5 cilities.

6 (b) MEMBERSHIP.—The members of the Committee
7 shall—

8 (1) be appointed by the Ombudsperson;

9 (2) represent various geographical regions; and

10 (3) be comprised of subject matter experts, in-
11 cluding—

12 (A) legal advocates or specialists in the
13 fields of child and family welfare, immigration,
14 and human rights;

15 (B) pediatricians or other appropriate pe-
16 diatric health care experts;

17 (C) child or adolescent psychiatrists or
18 psychologists;

19 (D) social workers;

20 (E) data analysis experts; and

21 (F) any other relevant subject matter ex-
22 pert.

23 (c) MEETINGS.—The Committee shall meet not less
24 frequently than quarterly.

25 (d) DUTIES.—The Committee shall regularly—

1 (1) review facility compliance with applicable
2 law and standards relating to Government detention
3 and custody of immigrant children, including the
4 Flores settlement agreement and section 235 of the
5 William Wilberforce Trafficking Victims Protection
6 Reauthorization Act of 2008 (8 U.S.C. 1232); and

7 (2) submit to the Ombudsperson recommenda-
8 tions for improvement.

9 (e) SITE VISITS.—The Committee may designate 1
10 or more individuals who shall have the authority—

11 (1) to carry out facility site visits; and

12 (2) interview immigrant children held in Gov-
13 ernment custody, after notification of counsel, as ap-
14 plicable.

15 **SEC. 105. COORDINATION WITH DEPARTMENT OF HOME-**
16 **LAND SECURITY.**

17 (a) MEMORANDUM OF UNDERSTANDING.—

18 (1) IN GENERAL.—On the date of the enact-
19 ment of this Act, the Secretary of Homeland Secu-
20 rity and the Ombudsperson shall enter into a memo-
21 randum of understanding to coordinate oversight be-
22 tween the Department of Homeland Security and
23 the Department of Health and Human Services.

1 (2) ELEMENTS.—The memorandum of under-
2 standing required by paragraph (1) shall do the fol-
3 lowing:

4 (A) Require the Secretary of Homeland
5 Security to provide information to the
6 Ombudsperson with respect to each immigrant
7 child detained by U.S. Customs and Border
8 Protection or U.S. Immigration and Customs
9 Enforcement, or who is otherwise in the custody
10 of the Secretary of Homeland Security, includ-
11 ing—

12 (i) the location of the immigrant child;

13 (ii) biographical information, includ-
14 ing full name, date of birth, country of citi-
15 zenship, race, and alien number;

16 (iii) all locations at which the immi-
17 grant child has been so detained or held in
18 Department of Homeland Security cus-
19 tody;

20 (iv) exact times at which the immi-
21 grant child was booked in and booked out
22 of such custody;

23 (v) the date on which the immigrant
24 child is released from such custody or

1 transferred to the custody of the Secretary
2 of Health and Human Services;

3 (vi) in the case of an immigrant child
4 who remains in Department of Homeland
5 Security custody for more than 72 hours,
6 the reason for such continued custody; and

7 (vii) any other information the
8 Ombudsperson considers relevant to the
9 oversight and monitoring duties described
10 in section 102(c)(3).

11 (B) Establish the right of the
12 Ombudsperson and the Committee to monitor
13 Department of Homeland Security facilities for
14 compliance with applicable standards of cus-
15 tody.

16 (C) Provide the Ombudsperson and the
17 Committee full and unobstructed access to—

18 (i) Department of Homeland Security
19 facilities for regular site visits; and

20 (ii) the written policies and procedures
21 of Department of Homeland Security fa-
22 cilities.

23 (3) LIMITATION.—The memorandum of under-
24 standing may only allow the Ombudsperson to share
25 information with the Secretary of Homeland Secu-

1 rity on a case-by-case basis, and with the informed
2 consent of the immigrant child concerned (unless the
3 Ombudsperson determines that the child lacks the
4 capacity to consent), if the Ombudsperson deter-
5 mines that the disclosure of the information to the
6 Secretary of Health and Human Services will ad-
7 vance the best interests of the immigrant child, in-
8 cluding by facilitating the release of the immigrant
9 child from custody.

10 (4) EVALUATION.—Not later than 2 years after
11 the Ombudsperson and the Secretary of Homeland
12 Security enter into the memorandum of under-
13 standing required by this subsection, the Comp-
14 troller General of the United States shall evaluate
15 the coordination between the Ombudsperson and the
16 Secretary to determine whether such memorandum
17 of understanding is sufficient to ensure the oversight
18 and monitoring required by this title.

19 (5) RECOMMENDATIONS.—If the Comptroller
20 General makes a determination under paragraph (4)
21 that the memorandum of understanding is insuffi-
22 cient, the Comptroller General shall recommend ac-
23 tionable steps to be implemented—

1 (A) to improve coordination between the
2 Ombudsperson and the Secretary of Homeland
3 Security; and

4 (B) to ensure effectiveness of the mandate
5 of the Ombudsperson.

6 (b) INTERAGENCY WORKING GROUP.—

7 (1) ESTABLISHMENT.—There is established an
8 interagency working group to identify and discuss
9 concerns relating to immigrant children in facilities.

10 (2) MEMBERSHIP.—The Working Group shall
11 be composed of representatives of—

12 (A) the Department of Justice;

13 (B) the Department of Health and Human
14 Services, including the Director or a senior rep-
15 resentative of the Office of Refugee Resettle-
16 ment;

17 (C) U.S. Customs and Border Protection;

18 (D) U.S. Immigration and Customs En-
19 forcement;

20 (E) relevant oversight offices, including—

21 (i) the Immigration Detention Om-
22 budsman of the Department of Homeland
23 Security; and

24 (ii) the Inspectors General of the De-
25 partment of Justice, the Department of

1 Health and Human Services, U.S. Cus-
2 toms and Border Protection, and U.S. Im-
3 migration and Customs Enforcement; and
4 (F) any other relevant Federal agency or
5 office.

6 (3) MEETINGS.—The Working Group shall—

7 (A) hold meetings not less frequently than
8 quarterly;

9 (B) invite representatives of nongovern-
10 mental organizations that provide services to
11 immigrant children to participate in such meet-
12 ings as the Ombudsperson considers appro-
13 priate; and

14 (C) provide to the Ombudsperson a sum-
15 mary of each such meeting.

16 **SEC. 106. RULE OF CONSTRUCTION.**

17 Nothing in the title shall be construed to preclude
18 or limit Flores settlement agreement class counsel from
19 conducting independent investigations or seeking enforce-
20 ment actions relating to violations of the Flores settlement
21 agreement in any appropriate district court of the United
22 States.

1 **TITLE II—PROTECTIONS FOR**
2 **IMMIGRANT CHILDREN**
3 **Subtitle A—Unaccompanied Alien**
4 **Children in Immigration Pro-**
5 **ceedings**

6 **SEC. 201. LEGAL REPRESENTATION IN REMOVAL PRO-**
7 **CEEDINGS.**

8 (a) IN GENERAL.—Section 235 of the William Wil-
9 berforce Trafficking Victims Protection Reauthorization
10 Act (8 U.S.C. 1232) is amended—

11 (1) in subsection (a)(5)(D)(iii), by striking “ac-
12 cess to” and inserting “representation by”; and

13 (2) in subsection (c), by amending paragraph
14 (5) to read as follows:

15 “(5) LEGAL REPRESENTATION.—

16 “(A) APPOINTMENT OR PROVISION OF
17 COUNSEL.—

18 “(i) IN GENERAL.—As expeditiously
19 as possible after an unaccompanied alien
20 child is issued a notice to appear under
21 section 239(a) of the Immigration and Na-
22 tionality Act (8 U.S.C. 1229(a)), the Sec-
23 retary of Health and Human Services shall
24 appoint or provide counsel to represent the
25 child in removal proceedings under section

1 240 of the Immigration and Nationality
2 Act (8 U.S.C. 1229a), related matters be-
3 fore the Department of Homeland Secu-
4 rity, and in any appeal proceeding before
5 the Attorney General from any such re-
6 moval proceeding. Counsel shall be pro-
7 vided under this subparagraph at Govern-
8 ment expense unless a child has retained
9 counsel authorized to represent the child in
10 such proceedings.

11 “(ii) IMMIGRATION FILE.—Each unac-
12 companied alien child, and the counsel of
13 such a child, shall receive a complete copy
14 of the child’s immigration file (other than
15 documents protected from disclosure under
16 section 552(b) of title 5, United States
17 Code).

18 “(B) ROLE OF THE DEPARTMENT OF
19 HEALTH AND HUMAN SERVICES.—The Sec-
20 retary of Health and Human Services shall—

21 “(i) to the maximum extent prac-
22 ticable, make every effort to use the serv-
23 ices of competent counsel who agree to
24 provide representation to children de-

1 scribed in subparagraph (A)(i) without
2 charge;

3 “(ii) in the case of an unaccompanied
4 alien child who retained counsel at his or
5 her own expense but whose counsel has
6 ceased to represent the child, ensure the
7 continued representation of the child
8 through the pendency of removal pro-
9 ceedings and any appeal proceeding before
10 the Attorney General from any such re-
11 moval proceeding by appointing or pro-
12 viding new counsel as expeditiously as pos-
13 sible;

14 “(iii) in consultation with the Attor-
15 ney General, develop model guidelines for
16 representing children in immigration pro-
17 ceedings for the purposes of—

18 “(I) helping to protect children
19 from individuals suspected of involve-
20 ment in criminal, harmful, or exploita-
21 tive activities associated with the
22 smuggling or trafficking of children;
23 and

1 “(II) ensuring the fairness of re-
2 moval proceedings in which children
3 are involved; and

4 “(iv) as necessary and appropriate,
5 enter into contracts or award grants for
6 the provision of immigration-related legal
7 services to children.

8 “(C) ROLE OF THE DEPARTMENT OF JUSTICE.—The Attorney General shall ensure that
9 all immigration courts before which unaccom-
10 panied alien children appear contain specialized
11 children’s dockets. Such dockets shall contain
12 child-appropriate procedures that advance due
13 process in unaccompanied alien children’s pro-
14 ceedings. Immigration judges assigned to spe-
15 cialized children’s dockets shall have received
16 specialized training in such procedures. Such
17 procedures shall include processes for coordi-
18 nating with legal services organizations to facili-
19 tate legal representation of unaccompanied
20 alien children.”.

21
22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 462(b)(1)(A) of Homeland Security
24 Act of 2002 (6 U.S.C. 279(b)(1)(A)) is amended by
25 striking “, consistent with the law regarding ap-

1 pointment of counsel that is in effect on the date of
2 the enactment of this Act”.

3 (2) Section 292 of the Immigration and Nation-
4 ality Act (8 U.S.C. 1362) is amended by inserting
5 “, except as provided in section 235(c)(5) of the Wil-
6 liam Wilberforce Trafficking Victims Protection Re-
7 authorization Act (8 U.S.C. 1232(e)(5))” after “at
8 no expense to the Government”.

9 **SEC. 202. MOTIONS TO REOPEN.**

10 Section 240(c)(7)(C) of the Immigration and Nation-
11 ality Act (8 U.S.C. 1229a(c)(7)(C)) is amended by adding
12 at the end the following:

13 “(v) SPECIAL RULE FOR UNACCOM-
14 PANIED ALIEN CHILDREN ENTITLED TO
15 APPOINTMENT OF COUNSEL.—If the Sec-
16 retary of Health and Human Services fails
17 to appoint or provide counsel for an unac-
18 companied alien child (as defined in
19 462(g)(2) of Homeland Security Act of
20 2002 (6 U.S.C. 279(g)(2)))—

21 “(I) the limitations under this
22 paragraph with respect to the filing of
23 a motion to reopen by such child shall
24 not apply; and

1 “(II) the filing of such a motion
2 shall stay the removal of the child.”.

3 **Subtitle B—Access to Services**

4 **SEC. 211. CLARIFICATION OF UNACCOMPANIED CHILD DE- 5 TERMINATION PROCEDURES.**

6 (a) **ELIGIBILITY FOR SERVICES REGARDLESS OF
7 CUSTODIAL STATUS.**—Section 235(c)(1) of the William
8 Wilberforce Trafficking Victims Protection Reauthoriza-
9 tion Act (8 U.S.C. 1232(c)(1)) is amended by adding at
10 the end the following: “Such policies and programs shall
11 be available to unaccompanied alien children regardless of
12 whether they are or have ever been in Federal custody.”.

13 (b) **SCREENINGS OF CHILDREN FROM CONTIGUOUS
14 COUNTRIES CONDUCTED BY ASYLUM OFFICERS.**—Sec-
15 tion 235(a) of the William Wilberforce Trafficking Victims
16 Protection Reauthorization Act (8 U.S.C. 1232(a)) is
17 amended—

18 (1) in paragraph (2)(A), by striking “the Sec-
19 retary of Homeland Security” and inserting “an asy-
20 lum officer (as defined in section 235(b)(1)(E) of
21 the Immigration and Nationality Act (8 U.S.C.
22 1225(b)(1)(E)))”; and

23 (2) in paragraph (4) by inserting “by an asy-
24 lum officer” after “the child shall be screened”.

25 (c) **ANALYSIS OF EFFICACY OF CURRENT LAW.**—

1 (1) IN GENERAL.—Not later than 2 years after
2 the date of the enactment of this Act, and every 2
3 years thereafter, the Secretary of Homeland Secu-
4 rity, in consultation with the Secretary of Health
5 and Human Services, the head of any other Federal
6 agency the Secretary of Homeland Security con-
7 siders appropriate, and child welfare advocates, shall
8 complete an analysis of the efficacy of the law, in-
9 cluding regulations, relating to unaccompanied alien
10 children from contiguous countries (in effect as of
11 the date on which the analysis is completed), includ-
12 ing the efficacy of such laws in providing access to
13 protection for victims of trafficking and children
14 fleeing persecution.

15 (2) REPORT.—Not later than 60 days after the
16 date on which each analysis required by paragraph
17 (1) is completed, the Secretary of Homeland Secu-
18 rity shall submit a report to the Committee on the
19 Judiciary of the Senate and the Committee on the
20 Judiciary of the House of Representatives a report
21 on the results of the analysis.

22 (3) PUBLIC AVAILABILITY.—Not later than 180
23 days after the date on which each report is sub-
24 mitted under paragraph (2), the Secretary of Home-
25 land Security shall make the report available to the

1 public on an internet website of the Department of
2 Homeland Security.

3 **SEC. 212. IMPROVING ACCESS TO POST-RELEASE SERV-**
4 **ICES.**

5 Section 235(c)(3)(B) of the William Wilberforce
6 Trafficking Victims Protection Reauthorization Act (8
7 U.S.C. 1232(c)(3)(B)) is amended—

8 (1) by adding at the end the following: “Follow-
9 up services under this clause shall commence not
10 later than the date that is 30 days after the date on
11 which the child concerned is released from the cus-
12 tody of the Secretary of Health and Human Serv-
13 ices.”;

14 (2) in the first sentence, by striking “Before”
15 and inserting the following:

16 “(i) IN GENERAL.—Before”; and

17 (3) by adding at the end the following:

18 “(ii) ACCESS TO POST-RELEASE SERV-
19 ICES.—

20 “(I) HOME VISITS.—Not later
21 than 90 days after the date on which
22 a child is released from the custody of
23 the Secretary of Health and Human
24 Services, the Secretary shall ensure
25 that the child receives an in-person

1 home visit to determine the well-being
2 of the child and to assess the suit-
3 ability and safety of the home in
4 which the child was placed if—

5 “(aa) except as described in
6 item (bb), a sponsor has agreed
7 to receive such services; or

8 “(bb) the child, based on all
9 available objective evidence—

10 “(AA) has been or is at
11 risk of becoming a victim of
12 a severe form of trafficking
13 in persons;

14 “(BB) is a special
15 needs child with a disability
16 (as defined in section 3 of
17 the Americans with Disabil-
18 ities Act of 1990 (42 U.S.C.
19 12102));

20 “(CC) has been or is at
21 risk of becoming a victim of
22 physical or sexual abuse
23 under circumstances that in-
24 dicate that the child’s health
25 or welfare has been or would

1 be significantly harmed or
2 threatened; or

3 “(DD) is a child whose
4 sponsor clearly presents a
5 risk of abuse, maltreatment,
6 exploitation, neglect, or
7 labor exploitation to the
8 child.

9 “(II) ADDITIONAL FOLLOW-UP
10 SERVICES.—The Secretary of Health
11 and Human Services shall ensure that
12 a child receives additional follow-up
13 services if, in the course of the home
14 visit under subclause (I), it is deter-
15 mined for the first time that the child,
16 based on all available objective evi-
17 dence—

18 “(aa) has been or is at risk
19 of becoming a victim of a severe
20 form of trafficking in persons;

21 “(bb) is a special needs child
22 with a disability (as defined in
23 section 3 of the Americans with
24 Disabilities Act of 1990 (42
25 U.S.C. 12102));

1 “(cc) has been or is at risk
 2 of becoming a victim of physical
 3 or sexual abuse under cir-
 4 cumstances that indicate that the
 5 child’s health or welfare has been
 6 or would be significantly harmed
 7 or threatened; or

8 “(dd) is a child whose spon-
 9 sor clearly presents a risk of
 10 abuse, maltreatment, exploi-
 11 tation, neglect, or labor exploi-
 12 tation to the child.”.

13 **SEC. 213. STATE-LEVEL COORDINATORS FOR UNACCOM-**
 14 **PANIED CHILDREN’S SERVICES.**

15 Section 235(c) of the William Wilberforce Trafficking
 16 Victims Protection Reauthorization Act (8 U.S.C.
 17 1232(c)) is amended by adding at the end the following:

18 “(7) ASSISTANCE TO STATE AND LOCAL ENTI-
 19 TIES FOR UNACCOMPANIED CHILDREN’S SERV-
 20 ICES.—

21 “(A) ASSISTANCE TO STATES.—The Sec-
 22 retary of Health and Human Services may pro-
 23 vide funding to each State to appoint a State-
 24 level coordinator to fulfill the responsibilities de-
 25 scribed in subparagraph (C).

1 “(B) NONGOVERNMENTAL COORDI-
2 NATOR.—If a State does not appoint a coordi-
3 nator under subparagraph (A), the Secretary of
4 Health and Human Services may appoint a
5 nongovernmental coordinator to fulfill the re-
6 sponsibilities described in subparagraph (C).

7 “(C) RESPONSIBILITIES.—The responsibil-
8 ities described in this subparagraph shall in-
9 clude the following:

10 “(i) To raise the awareness of govern-
11 mental and nongovernmental entities with
12 respect to the vulnerabilities of unaccom-
13 panied alien children, including Federal
14 oversight mechanisms, such as the Office
15 of the Ombudsperson for Immigrant Chil-
16 dren in Federal Custody established under
17 section 102 of the Protecting Unaccom-
18 panied Children Act.

19 “(ii) To coordinate the efforts of such
20 entities so as to meet the educational, med-
21 ical and mental health care, child welfare,
22 and social services needs of unaccompanied
23 alien children.

24 “(iii) To work with service providers
25 engaged in the care and custody of unac-

1 accompanied alien children to identify com-
2 munity services, and to increase access to
3 such services, for unaccompanied alien
4 children.

5 “(iv) To ensure that schools, rec-
6 reational facilities, community centers, and
7 similar institutions have information re-
8 garding—

9 “(I) the risks of human traf-
10 ficking and labor exploitation for vul-
11 nerable children; and

12 “(II) child labor laws, local min-
13 imum wage requirements, and mecha-
14 nisms for reporting violations of such
15 laws and requirements.

16 “(v) To ensure that information pro-
17 vided under clause (iv)—

18 “(I) is written in plain, child-ac-
19 cessible language (including in appro-
20 priate languages other than English);
21 and

22 “(II) makes clear that such laws
23 and requirements apply to all children
24 and workers regardless of immigration
25 status.

1 “(vi) To ensure that language is not
2 a barrier to obtaining the services de-
3 scribed in this paragraph.”.

4 **SEC. 214. ASSISTANCE FOR CHILDREN AND FAMILIES SEPA-**
5 **RATED UNDER ZERO TOLERANCE.**

6 (a) IN GENERAL.—Notwithstanding any other provi-
7 sion of law, an individual shall be eligible for the benefits
8 described in subsection (b), if the individual—

9 (1) has completed security and law enforcement
10 background checks to the satisfaction of the Sec-
11 retary of Homeland Security; and

12 (2)(A) has been paroled into the United States
13 under section 212(d)(5) of the Immigration and Na-
14 tionality Act (8 U.S.C. 1182(d)(5)) pursuant to the
15 implementation of Executive Order 14011, and has
16 not had such parole terminated; or

17 (B) is eligible, based on a determination by the
18 Secretary of Health and Human Services through
19 reference to the identified members of the classes,
20 and their minor children, in the class-action lawsuits
21 *J.P. v. Barr* (C.D. Cal. 2020) and *Ms. L. v. U.S.*
22 *Immigration and Customs Enforcement*, 330 F.R.D.
23 284 (2019), for any assistance, program, benefit, or
24 services described in subsection (b).

1 (b) BENEFITS.—Notwithstanding any other provision
2 of law, an individual described in subsection (a) shall be
3 eligible for—

4 (1) resettlement assistance, entitlement pro-
5 grams, and other benefits available to refugees ad-
6 mitted under section 207 of the Immigration and
7 Nationality Act (8 U.S.C. 1157) to the same extent,
8 and for the same periods of time, as such refugees;

9 (2) services described under section 412(d)(2)
10 of the Immigration and Nationality Act (8 U.S.C.
11 1522(d)(2)), subject to subparagraph (B) of such
12 section, if such individual is an unaccompanied alien
13 child (as defined in section 462(g) of the Homeland
14 Security Act of 2002 (6 U.S.C. 279(g))); and

15 (3) a driver’s license or identification card
16 under section 202 of the REAL ID Act of 2005 (di-
17 vision B of Public Law 109–13; 49 U.S.C. 30301
18 note), notwithstanding subsection (c)(2)(B) of such
19 section.

1 **Subtitle C—Facilities Housing**
2 **Unaccompanied Alien Children**

3 **SEC. 221. TECHNICAL ASSISTANCE FOR COMMUNITY-BASED**
4 **CARE PROVIDERS.**

5 (a) IN GENERAL.—Section 235(c)(2) of the William
6 Wilberforce Trafficking Victims Protection Reauthoriza-
7 tion Act (8 U.S.C. 1232(c)(2)) is amended—

8 (1) in subparagraph (A)—

9 (A) in the first sentence, by striking “Sub-
10 ject to” and inserting the following:

11 “(i) IN GENERAL.—Subject to”; and

12 (B) by adding at the end the following:

13 “(ii) PRESUMPTION OF LEAST RE-
14 STRICTIVE SETTING.—The least restrictive
15 setting that is in the best interest of the
16 child is presumed to be a placement that
17 most approximates a family and in which
18 the child’s special needs, if any, may be
19 met. Children placed under this subsection
20 shall be placed in the following order of
21 preference:

22 “(I) Family-based foster care.

23 “(II) Group home foster care.

24 “(III) A shelter with capacity for
25 25 or fewer children.

1 “(iii) TECHNICAL ASSISTANCE.—The
2 Secretary of Health and Human Services
3 shall provide technical assistance to non-
4 governmental, nonprofit organizations that
5 are eligible for grants and contracts award-
6 ed by the Department of Health and
7 Human Services to ensure that children
8 are placed in small scale, community-based
9 settings.”.

10 (b) ANNUAL REPORT.—

11 (1) IN GENERAL.—Not later than 30 days after
12 the date of the enactment of this Act, and annually
13 thereafter, the Secretary of Health and Human
14 Services shall submit to Congress a report on the
15 number of unaccompanied alien children who, during
16 the preceding fiscal year, resided in a facility with
17 a capacity for 25 or fewer children.

18 (2) DESCRIPTION OF BARRIERS TO OBTAINING
19 HHS CONTRACTS AND GRANTS.—Each report re-
20 quired by paragraph (1) shall describe in detail the
21 barriers for small-scale community-based providers
22 to undergoing the Department of Health and
23 Human Services contracting and granting processes,
24 including staffing limitations, availability, outreach,
25 recruitment of potential providers, other identified

1 barriers to making the transition to small-scale com-
2 munity-based facilities, and recommendations to ad-
3 dress such barriers.

4 (3) CONSULTATION.—In developing each report
5 required by paragraph (1), the Secretary for Health
6 and Human Services shall consult with staff of cur-
7 rent small-scale or community-based facilities hous-
8 ing children and other organizations with expertise
9 in child development, child welfare, and serving chil-
10 dren with disabilities.

11 (c) PLAN TO TRANSITION CARE TO FOSTER CARE
12 OR SMALL-SCALE SETTINGS.—

13 (1) IN GENERAL.—The Secretary of Health and
14 Human Services shall develop a plan to transition all
15 unaccompanied alien children in the custody of the
16 Secretary to—

17 (A) foster care placements; or

18 (B) shelters with capacity for 25 or fewer
19 children.

20 (2) SUBMISSION TO CONGRESS.—Not later than
21 1 year after the date of the enactment of this Act,
22 the Secretary of Health and Human Services shall
23 submit to Congress the plan developed under para-
24 graph (1).

1 **SEC. 222. STANDARDS AND COMPLIANCE.**

2 Section 235(c)(2) of the William Wilberforce Traf-
3 ficking Victims Protection Reauthorization Act (8 U.S.C.
4 1232), as amended by section 221, is further amended—

5 (1) in subparagraph (A), by adding at the end
6 the following:

7 “(iv) BACKGROUND CHECKS FOR COV-
8 ERED INDIVIDUALS.—

9 “(I) IN GENERAL.—Subject to
10 subclause (II), the Secretary of
11 Health and Human Services shall en-
12 sure that, not less frequently than
13 every 5 years, each covered individual
14 completes a background check to the
15 satisfaction of the Secretary.

16 “(II) WAIVER FOR DIRECT SERV-
17 ICES PROVIDERS.—The Secretary of
18 Health and Human Services may
19 waive the application of subclause (I)
20 in the case of an attorney of record or
21 licensed medical practitioner who pro-
22 vides on-site services at a facility that
23 houses unaccompanied alien children.

24 “(III) SCOPE.—The scope of a
25 background check required by this

1 clause shall include, at a minimum,
2 the following:

3 “(aa) A fingerprint check by
4 the Federal Bureau of Investiga-
5 tion and State criminal history
6 repositories.

7 “(bb) A child protective
8 services check with the individ-
9 ual’s State of United States resi-
10 dence for the last 5 years.

11 “(cc) Background investiga-
12 tion updates at a minimum of
13 every 5 years.

14 “(IV) COVERED INDIVIDUAL DE-
15 FINED.—In this clause, the term ‘cov-
16 ered individual’ means—

17 “(aa) an employee or con-
18 tractor with direct access to un-
19 accompanied alien children in the
20 care and custody of the Secretary
21 of Health and Human Services;

22 “(bb) an individual with un-
23 supervised, direct access to such
24 children; and

1 “(cc) a foster parent with
 2 whom an unaccompanied alien
 3 child is placed, including a tran-
 4 sitional or long-term foster par-
 5 ent, and each foster parent
 6 household member who is aged
 7 18 years or over.

8 “(V) RULE OF CONSTRUCTION.—
 9 Nothing in this clause may be con-
 10 strued to supersede applicable State
 11 licensing requirements for background
 12 checks on employees of programs or
 13 facilities involved in the care and cus-
 14 tody of children.”; and

15 (2) in subparagraph (B), in the first sentence,
 16 by striking “subparagraph (A)” and inserting “sub-
 17 paragraph (A)(i)”.

18 **Subtitle D—Child Welfare at the**
 19 **Border and Prevention of Fam-**
 20 **ily Separation**

21 **SEC. 231. CHILD WELFARE TRAINING AT THE BORDER.**

22 (a) DEFINITIONS.—In this section:

23 (1) COOPERATING ENTITY.—The term “cooper-
 24 ating entity” means a State or local entity acting

1 pursuant to an agreement with the Secretary of
2 Homeland Security.

3 (2) EXPERT IN CHILD DEVELOPMENT.—The
4 term “expert in child development” means an indi-
5 vidual who has significant education and expertise
6 on infant, child, and adolescent development, and on
7 the effects of trauma on children.

8 (3) EXPERT IN CHILD WELFARE.—The term
9 “expert in child welfare” means an individual who
10 has—

11 (A) knowledge of Federal and State child
12 welfare laws and standards; and

13 (B) not less than 5 years of experience in
14 the field of child and adolescent development or
15 child welfare.

16 (4) EXPERT IN PEDIATRIC MEDICINE.—The
17 term “expert in pediatric medicine” means—

18 (A) an individual who is board-certified in
19 pediatric medicine in one or more States; and

20 (B) an individual with an advanced degree
21 in pediatric medicine on the faculty of an insti-
22 tution of higher education in the United States.

23 (b) GUIDELINES.—The Secretary of Homeland Secu-
24 rity, in consultation with the Secretary of Health and
25 Human Services, experts in child development, experts in

1 child welfare, and experts in pediatric medicine, shall de-
2 velop guidelines for the treatment of children in the cus-
3 tody of the Commissioner of U.S. Customs and Border
4 Protection.

5 (c) MANDATORY TRAINING.—The Secretary of
6 Homeland Security, in consultation with the Secretary of
7 Health and Human Services, shall—

8 (1) require all U.S. Customs and Border Pro-
9 tection personnel, and cooperating entity personnel,
10 who have contact with a child at a port of entry or
11 Border Patrol station to undergo appropriate train-
12 ing, which shall include live training, on—

13 (A) the applicable legal authorities, poli-
14 cies, practices, and procedures relating to chil-
15 dren; and

16 (B) child-friendly interviewing techniques,
17 child development, trauma, and the manner in
18 which trauma affects the health and behavior of
19 children; and

20 (2) require U.S. Customs and Border Protec-
21 tion personnel, not less frequently than annually, to
22 undertake continuing training on—

23 (A) identifying and responding to common
24 signs and symptoms of medical distress in chil-
25 dren;

1 (B) best practices with respect to the
2 guidelines developed under subsection (b); and

3 (C) changes in the legal authorities, poli-
4 cies, and procedures described in paragraph
5 (1)(A).

6 **SEC. 232. PREVENTING FAMILY SEPARATION OF UNACCOM-**
7 **PANIED CHILDREN.**

8 Section 235(b) of the William Wilberforce Trafficking
9 Victims Protection Reauthorization Act (8 U.S.C.
10 1232(b)) is amended by adding at the end the following:

11 “(5) PREVENTING SEPARATION FROM NON-PAR-
12 ENT RELATIVES.—

13 “(A) IN GENERAL.—In the case of an un-
14 accompanied alien child determined to have en-
15 tered the United States or have been appre-
16 hended with a relative who is neither a parent
17 nor guardian, the Secretary of Health and
18 Human Services, in consultation with the Sec-
19 retary of Homeland Security or other appro-
20 priate agencies of the government, shall evalu-
21 ate whether that unaccompanied alien child can
22 be safely released from Federal custody to that
23 relative as a sponsor consistent with the process
24 described in paragraph (3) of this section.

1 “(B) RELEASE TO RELATIVE.—If the Sec-
2 retary of Health and Human Services makes
3 such a determination, the Secretary of Home-
4 land Security shall release the unaccompanied
5 alien child to that relative unless the cir-
6 cumstances in subparagraph (C) apply.

7 “(C) CONSIDERATION OF RELATIVE AS
8 SPONSOR.—If an unaccompanied alien child is
9 transferred to the custody of the Secretary of
10 Health and Human Services, the non-parent
11 relative described in subparagraph (A) may
12 continue to be evaluated as a potential sponsor
13 to whom the child may be released from Fed-
14 eral custody as described in subsection (c)(3) of
15 this section, as necessary to ensure child well-
16 being and safety.

17 “(D) RULE OF CONSTRUCTION.—Nothing
18 in this paragraph shall be construed to change
19 the definition of a parent or legal guardian for
20 the purpose of making a determination of
21 whether a child is an unaccompanied alien child
22 pursuant to 462(g)(C) of the Homeland Secu-
23 rity Act of 2002 (6 U.S.C. 279(g)(C)).

24 “(E) FACILITIES REQUIREMENTS.—The
25 Secretary of Homeland Security, in consultation

1 with the Secretary of Health and Human Serv-
 2 ices, shall ensure that child-appropriate spaces
 3 are available to complete the evaluations de-
 4 scribed in this paragraph. Such space shall ac-
 5 commodate staff of the Department of Health
 6 and Human Services, as appropriate.

7 “(F) RECORDKEEPING.—With respect to
 8 each alien over the age of 18 years who has en-
 9 tered the United States with an unaccompanied
 10 alien child, the Secretary of Homeland Security
 11 shall—

12 “(i) maintain an electronic record that
 13 includes the familial relationship between
 14 the adult and child; and

15 “(ii) share such record with the Sec-
 16 retary of Health and Human Services as
 17 necessary to facilitate the identification of
 18 an appropriate sponsor for the child.”.

19 **TITLE III—ENSURING SAFE** 20 **RELEASE TO SPONSORS**

21 **SEC. 301. ENSURING SAFE RELEASE TO SPONSORS WHO** 22 **ARE NOT PARENTS OR LEGAL GUARDIANS.**

23 Section 235(c)(3)(A) of the William Wilberforce
 24 Trafficking Victims Protection Reauthorization Act (8
 25 U.S.C. 1232(c)(3)(A)) is amended—

1 (1) by inserting “or sponsor” after “makes a
2 determination that the proposed custodian”;

3 (2) by inserting “, address,” after “custodian’s
4 identity”; and

5 (3) by striking the period and inserting the fol-
6 lowing: “, in accordance with uniform procedures es-
7 tablished by the Secretary of Health and Human
8 Services. If a proposed sponsor is not the parent or
9 legal guardian of a child, such procedures shall in-
10 clude criminal background and public records checks
11 for any proposed sponsor or adult member of the
12 proposed sponsor’s household. The Secretary of
13 Health and Human Services shall ensure that infor-
14 mation obtained about a sponsor or a household
15 member of a sponsor through such checks is not
16 shared with the Department of Homeland Security
17 or any other Federal agency for the purpose of im-
18 migration enforcement.”.

19 **SEC. 302. EXPANSION AND EVALUATION OF HOME STUDIES.**

20 (a) Section 235(c)(3)(B) of the William Wilberforce
21 Trafficking Victims Protection Reauthorization Act (8
22 U.S.C. 1232(c)(3)(B)), as amended by section 212, is fur-
23 ther amended—

24 (1) in clause (i), by inserting “or custodian
25 clearly” after “whose proposed sponsor”;

1 (2) by adding at the end the following: “A
2 home study shall also be conducted for a child whose
3 proposed sponsor is a distant relative or unrelated to
4 the child in which verification of relationship cannot
5 be clearly demonstrated.”;

6 (3) by redesignating clause (ii) as clause (iv);
7 and

8 (4) by inserting after clause (i) the following:

9 “(ii) GUIDELINES.—The Secretary of
10 Health and Human Services shall establish
11 guidelines for the conduct of home studies
12 under clause (i) that include—

13 “(I) a deadline for completion of
14 a home study that is not sooner than
15 15 calendar days after the date on
16 which the home study is requested;

17 “(II) objective, publicly available
18 criteria for releasing a child following
19 a negative home study recommenda-
20 tion; and

21 “(III) requirements for individ-
22 uals who conduct home studies, in-
23 cluding at a minimum professional or
24 educational knowledge related to child
25 and adult development, cultural com-

1 petence, trauma, parenting and family
2 dynamics, and screening and identi-
3 fying indicators of human trafficking.

4 “(iii) REPORT.—

5 “(I) IN GENERAL.—Not later
6 than 2 years after the date of the en-
7 actment of the Protecting Unaccom-
8 panied Children Act, and every 2
9 years thereafter, the Secretary of
10 Health and Human Services shall re-
11 port on the effectiveness of home
12 studies conducted under clause (i).

13 “(II) ELEMENTS.—Each report
14 required by subclause (I) shall include
15 the following:

16 “(aa) An assessment of the
17 effectiveness of such home stud-
18 ies in identifying safety concerns.

19 “(bb) For the preceding 2-
20 year period—

21 “(AA) the number of
22 home studies conducted and
23 a description of the out-
24 comes of such home studies,
25 including whether or not

1 each home study resulted in
 2 a positive or negative rec-
 3 ommendation of the sponsor
 4 concerned;

5 “(BB) the number and
 6 type of safety concerns iden-
 7 tified through such home
 8 studies; and

9 “(CC) the number of
 10 sponsors to whom a child
 11 was not released due to safe-
 12 ty concerns identified
 13 through a home study.”.

14 **SEC. 303. REQUIREMENTS FOR CHILD AND SPONSOR CASE**
 15 **MANAGEMENT SYSTEM.**

16 (a) IN GENERAL.—Section 235(c)(3) of the William
 17 Wilberforce Trafficking Victims Protection Reauthoriza-
 18 tion Act (8 U.S.C. 1232(c)(3)) is amended by adding at
 19 the end the following:

20 “(D) CASE MANAGEMENT SYSTEM.—

21 “(i) IN GENERAL.—The Secretary of
 22 Health and Human Services shall maintain
 23 a searchable electronic case management
 24 system to track the placement of unaccom-

1 panied alien children that includes the fol-
2 lowing information:

3 “(I) The name and address of
4 each proposed sponsor, including the
5 number of unaccompanied alien chil-
6 dren placed with each sponsor and
7 names of household members of a pro-
8 posed sponsor.

9 “(II) Reported safety concerns,
10 including reports of trafficking or ex-
11 ploitation, identified for sponsors of
12 unaccompanied alien children, or iden-
13 tified for adult members of household
14 at a specific address.

15 “(III) Vulnerabilities of unaccom-
16 panied alien children while in the care
17 and custody of the Secretary of
18 Health and Human Services, includ-
19 ing whether the child is a priority for
20 post-release services.

21 “(IV) Reports of trafficking or
22 exploitation made by unaccompanied
23 alien children, including reported in-
24 formation about geographic area
25 (such as a neighborhood) where such

1 trafficking occurred and where em-
2 ployers implicated in such reports are
3 located.

4 “(ii) CASE MANAGEMENT SYSTEM RE-
5 QUIREMENTS.—

6 “(I) POTENTIAL DUPLICATE
7 RECORDS.—In the event that the case
8 management system detects a poten-
9 tial duplicate record, employees of the
10 Department of Health and Human
11 Services and grantees or contractors
12 acting on behalf of the Department,
13 shall verify the records and, if nec-
14 essary, consolidate duplicate records.

15 “(II) EXCLUSION OF INFORMA-
16 TION ON IMMIGRATION STATUS.—The
17 case management system shall not in-
18 clude information with respect to the
19 immigration status of any sponsor or
20 adult member of a sponsor’s house-
21 hold.

22 “(III) NONDISCLOSURE FOR EN-
23 FORCEMENT PURPOSES.—The infor-
24 mation contained in the case manage-
25 ment system shall not be disclosed to

1 the Secretary of Homeland Security
2 for the purpose of immigration en-
3 forcement.

4 “(iii) PRIVACY PROTECTIONS.—Any
5 record collected, stored, received, or pub-
6 lished under this subparagraph shall be—

7 “(I) collected, stored, received, or
8 published in a manner that protects
9 the privacy of any individual whose in-
10 formation is included in such data;

11 “(II) de-identified or anonymized
12 in a manner that protects the identity
13 of any individual whose information is
14 included in such data; and

15 “(III)(aa) limited in use for the
16 purpose of carrying out the duties of
17 the Office of the Ombudsperson; and

18 “(bb) protected from any other—

19 “(AA) internal use by any
20 entity that collects, stores, or re-
21 ceives the record; or

22 “(BB) inappropriate use.”

1 **TITLE IV—PROTECTIONS AND**
2 **ACCESS TO CERTAIN SERV-**
3 **ICES FOR SPECIAL IMMI-**
4 **GRANT JUVENILES AND**
5 **OTHER VULNERABLE IMMI-**
6 **GRANTS**

7 **SEC. 401. ELIMINATING ANNUAL EMPLOYMENT-BASED VISA**
8 **CAPS FOR SPECIAL IMMIGRANT JUVENILES.**

9 (a) ALIENS NOT SUBJECT TO DIRECT NUMERICAL
10 LIMITATIONS.—Section 201(b)(1)(A) of the Immigration
11 and Nationality Act (8 U.S.C. 1151(b)(1)(A)) is amended
12 by striking “subparagraph (A) or (B)” and inserting
13 “subparagraph (A), (B), or (J)”.

14 (b) PREFERENCE ALLOCATION FOR EMPLOYMENT-
15 BASED IMMIGRANTS.—Section 203(b)(4) of the Immigra-
16 tion and Nationality Act (8 U.S.C. 1153(b)(4)) is amend-
17 ed by striking “subparagraph (A) or (B)” and inserting
18 “subparagraph (A), (B), or (J)”.

19 **SEC. 402. ELIMINATION OF ANNUAL NUMERICAL LIMITA-**
20 **TION ON U VISAS.**

21 Section 214(p) of the Immigration and Nationality
22 Act (8 U.S.C. 1184(p)) is amended by striking paragraph
23 (2).

1 **SEC. 403. ACCESS TO MEDICAID FOR CERTAIN CHILDREN**
2 **GRANTED STATUS.**

3 (a) **ELIGIBILITY.**—Section 402(b)(2)(A)(i) of the
4 Personal Responsibility and Work Opportunity Reconcili-
5 ation Act of 1996 (8 U.S.C. 1612(b)(2)(A)(i)) is amended
6 —

7 (1) in subclause (IV), by striking “or” at the
8 end;

9 (2) in subclause (V), by striking the period at
10 the end and inserting a semicolon; and

11 (3) by adding at the end the following:

12 “(VI) an alien is granted special
13 immigrant status under section
14 101(a)(27)(J) of the Immigration and
15 Nationality Act (8 U.S.C.
16 1101(a)(27)(J));

17 “(VII) an alien under the age of
18 21 is granted status under section
19 101(a)(15)(U) of the Immigration and
20 Nationality Act (8 U.S.C.
21 1101(a)(15(U)); or

22 “(VIII) an alien is eligible for de-
23 ferred action pursuant to the June
24 15, 2012, Department of Homeland
25 Security Memorandum entitled ‘Exer-
26 cising Prosecutorial Discretion with

1 Respect to Individuals Who Came to
2 the United States as Children’, or any
3 successor policy.”.

4 (b) MODIFICATION TO DURATION OF ATTRIBU-
5 TION.—Section 421(b) of the Personal Responsibility and
6 Work Opportunity Reconciliation Act of 1996 (8 U.S.C.
7 1631(b)) is amended—

8 (1) in paragraph (1), by striking “or” at the
9 end;

10 (2) in paragraph (2), by striking the period at
11 the end and inserting a semicolon; and

12 (3) by adding at the end the following:

13 “(3) is granted special immigrant status under
14 section 101(a)(27)(J) of the Immigration and Na-
15 tionality Act (8 U.S.C. 1101(a)(27)(J));

16 “(4) in the case of an alien under the age of
17 21, is granted status under section 101(a)(15)(U) of
18 the Immigration and Nationality Act (8 U.S.C.
19 1101(a)(15(U)); or

20 “(5) is eligible for deferred action pursuant to
21 the June 15, 2012, Department of Homeland Secu-
22 rity Memorandum entitled ‘Exercising Prosecutorial
23 Discretion with Respect to Individuals Who Came to
24 the United States as Children’, or any successor pol-
25 icy.”.

1 **TITLE V—STOPPING CHILD**
2 **LABOR TRAFFICKING**

3 **SEC. 501. VICTIMS OF SERIOUS LABOR AND EMPLOYMENT**
4 **VIOLATIONS OR CRIME.**

5 (a) PROTECTION FOR VICTIMS OF LABOR AND EM-
6 PLOYMENT VIOLATIONS.—Section 101(a)(15)(U) of the
7 Immigration and Nationality Act (8 U.S.C.
8 1101(a)(15)(U)) is amended—

9 (1) in clause (i)—

10 (A) by striking subclause (I) and inserting
11 the following:

12 “(I) the alien—

13 “(aa) has suffered substan-
14 tial physical, emotional, or men-
15 tal abuse or harm as a result of
16 having been a victim of criminal
17 activity described in clause (iii);

18 “(bb) has suffered substan-
19 tial physical, emotional, or men-
20 tal abuse or harm related to a
21 violation described in clause (iv);

22 “(cc) is a victim of criminal
23 activity described in clause (iii)
24 and would suffer extreme hard-
25 ship upon removal; or

1 “(dd) has suffered a viola-
2 tion described in clause (iv) and
3 would suffer extreme hardship
4 upon removal;”;

5 (B) in subclause (II), by inserting “, or a
6 labor or employment violation resulting in a
7 workplace claim described in clause (iv)” before
8 the semicolon at the end;

9 (C) in subclause (III)—

10 (i) by striking “or State judge, to the
11 Service” and inserting “, State, or local
12 judge, to the Department of Homeland Se-
13 curity, to the Equal Employment Oppor-
14 tunity Commission, to the Department of
15 Labor (including the Occupational Safety
16 and Health Administration), to the Na-
17 tional Labor Relations Board, to the head
18 official of a State or local government de-
19 partment of labor, workforce commission,
20 or human relations commission or coun-
21 cil”;

22 (ii) by striking “investigating or pros-
23 ecuting” and inserting “investigating,
24 prosecuting, or seeking civil remedies for”;
25 and

- 1 (iii) by inserting “, or investigating,
2 prosecuting, or seeking civil remedies for a
3 labor or employment violation related to a
4 workplace claim described in clause (iv)”
5 before the semicolon; and
6 (D) in subclause (IV)—
7 (i) by inserting “(aa)” after “(IV)”;
8 (ii) by inserting “or” after the semi-
9 colon at the end; and
10 (iii) by adding at the end the fol-
11 lowing:
12 “(bb) a workplace claim de-
13 scribed in clause (iv) resulting from a
14 labor or employment violation;”;
15 (2) in clause (ii)(II), by striking “and” at the
16 end;
17 (3) in clause (iii), by striking “or” at the end
18 and inserting “and”; and
19 (4) by adding at the end the following:
20 “(iv) in the labor or employment vio-
21 lation related to a workplace claim, the
22 alien has filed, is a material witness in, or
23 is likely to be helpful in the investigation
24 of, a bona fide workplace claim (as defined
25 in section 274A(e)(10)(B)(iii)(II)); or”.

1 (b) TEMPORARY PROTECTION FOR INJURED WORK-
2 ERS AND VICTIMS OF CRIME, LABOR, AND EMPLOYMENT
3 VIOLATIONS.—Notwithstanding any other provision of
4 law, the Secretary of Homeland Security may permit an
5 alien to temporarily remain in the United States, shall not
6 remove the alien from the United States during the per-
7 mitted period, and shall provide the alien with the alien
8 employment authorization, if the Secretary determines
9 that the alien—

10 (1) has filed for relief under section
11 101(a)(15)(U) of the Immigration and Nationality
12 Act (8 U.S.C. 1101(a)(15)(U)) or section
13 101(a)(15)(T) of such Act (8 U.S.C.
14 1101(a)(15)(T));

15 (2)(A) has filed, or is a material witness to, a
16 bona fide workplace claim (as defined in paragraph
17 (10) of section 274A(e) of such Act, as added by
18 section 502(b) of this Act) or has filed, or is a mate-
19 rial witness to, a civil claim arising from criminal ac-
20 tivity (as defined in paragraph (10) of section
21 274A(e) of such Act, as added by section 502(b) of
22 this Act); and

23 (B) has been helpful, is being helpful, or is like-
24 ly to be helpful to—

1 (i) a Federal, State, or local law enforce-
2 ment official;

3 (ii) a Federal, State, or local prosecutor;

4 (iii) a Federal, State, or local judge;

5 (iv) the Department of Homeland Security;

6 (v) the Equal Employment Opportunity
7 Commission;

8 (vi) the Department of Labor, including
9 the Occupational Safety and Health Adminis-
10 tration;

11 (vii) the National Labor Relations Board;

12 (viii) the head official of a State or local
13 government department of labor, workforce
14 commission, or human relations commission or
15 council; or

16 (ix) other Federal, State, or local authori-
17 ties; or

18 (3) has filed a workers' compensation claim or
19 is undergoing treatment for a workplace injury or
20 illness.

21 (c) REQUIREMENTS APPLICABLE TO U VISAS.—Sec-
22 tion 214(p) of the Immigration and Nationality Act (8
23 U.S.C. 1184(p)) is amended—

24 (1) in paragraph (1), by inserting “or inves-
25 tigating, prosecuting, or seeking civil remedies for

1 workplace claims described in section
2 101(a)(15)(U)(iv)” after “section
3 101(a)(15)(U)(iii)” each place such term appears;
4 and

5 (2) in paragraph (6)—

6 (A) by inserting “or workplace claims de-
7 scribed in section 101(a)(15)(U)(iv)” after “de-
8 scribed in section 101(a)(15)(U)(iii)”;

9 (B) by inserting “or workplace claim”
10 after “prosecution of such criminal activity”.

11 (d) ADJUSTMENT OF STATUS FOR VICTIMS OF
12 CRIMES.—Section 245(m)(1) of the Immigration and Na-
13 tionality Act (8 U.S.C. 1255(m)(1)) is amended, in the
14 matter preceding subparagraph (A), by inserting “or an
15 investigation or prosecution regarding a workplace claim”
16 after “prosecution”.

17 (e) ADJUSTMENT OF STATUS AND FEES.—Section
18 245(l)(7) of the Immigration and Nationality Act (8
19 U.S.C. 1255(l)(7)) is amended by striking “permit aliens
20 to apply for a waiver of” and inserting “not require the
21 payment of”.

22 (f) CHANGE OF NONIMMIGRANT CLASSIFICATION.—
23 Section 384(a)(1) of the Illegal Immigration Reform and
24 Immigrant Responsibility Act of 1996 (8 U.S.C.
25 1367(a)(1)) is amended—

1 (1) in subparagraph (E), by striking “physical
2 or mental abuse and the criminal activity” and in-
3 serting “abuse and the criminal activity or work-
4 place claim”;

5 (2) in subparagraph (F)—

6 (A) by striking “(8 U.S.C. 1101(a)(51))”
7 and inserting “(8 U.S.C. 1101(a)(51))”; and

8 (B) by adding “or” at the end; and

9 (3) by inserting after subparagraph (F) the fol-
10 lowing:

11 “(G) the alien’s employer.”.

12 (g) CONFIDENTIALITY OF INFORMATION.—Section
13 384(b)(2) of the Illegal Immigration Reform and Immi-
14 grant Responsibility Act of 1996 (8 U.S.C. 1367(b)(2))
15 is amended by adding at the end the following: “However,
16 neither the Secretary of Homeland Security nor the Attor-
17 ney General may use the information furnished pursuant
18 to any application under section 101(a)(15)(T),
19 101(a)(15)(U), 101(a)(27), 101(a)(51), 106, 240A(b)(2),
20 or 244(a) of the Immigration and Nationality Act (8
21 U.S.C. 1101(a)(15)(T), 1101(a)(15)(U), 1101(a)(27),
22 1101(a)(51), 1105a, 1229b(b)(2), or 1254a(a)) or section
23 107(b)(1)(E)(i)(II)(bb) of the Victims of Trafficking and
24 Violence Protection Act of 2000 (22 U.S.C.

1 7105(b)(1)(E)(i)(II)(bb)), for purposes of initiating or
2 carrying out a removal proceeding.”.

3 **SEC. 502. LABOR ENFORCEMENT ACTIONS.**

4 (a) REMOVAL PROCEEDINGS.—Section 239(e) of the
5 Immigration and Nationality Act (8 U.S.C. 1229(e)) is
6 amended—

7 (1) in paragraph (1)—

8 (A) by striking “In cases where” and in-
9 serting “If”; and

10 (B) by inserting “or as a result of informa-
11 tion provided to the Department of Homeland
12 Security in retaliation against individuals for
13 exercising or attempting to exercise their em-
14 ployment rights or other legal rights” after
15 “paragraph (2)”; and

16 (2) in paragraph (2), by adding at the end the
17 following:

18 “(C) At a facility about which a workplace
19 claim has been filed or is contemporaneously
20 filed.”.

21 (b) UNLAWFUL EMPLOYMENT OF ALIENS.—Section
22 274A(e) of the Immigration and Nationality Act (8 U.S.C.
23 1324a(e)) is amended by adding at the end the following:

24 “(10) CONDUCT IN ENFORCEMENT ACTIONS.—

1 “(A) ENFORCEMENT ACTION.—If the Sec-
2 retary of Homeland Security undertakes an en-
3 forcement action at a facility about which a
4 workplace claim has been filed or is contem-
5 poraneously filed, or as a result of information
6 provided to the Department of Homeland Secu-
7 rity in retaliation against employees for exer-
8 cising their rights related to a workplace claim,
9 the Secretary shall ensure that—

10 “(i) any aliens arrested or detained
11 who are victims of or material witnesses to
12 workplace claim violations or criminal ac-
13 tivity (as described in subparagraph (T) or
14 (U) of section 101(a)(15)) are not removed
15 from the United States until after the Sec-
16 retary—

17 “(I) notifies the appropriate
18 agency with jurisdiction over such vio-
19 lations or criminal activity; and

20 “(II) provides such agency with
21 the opportunity to interview such
22 aliens; and

23 “(ii) no aliens entitled to a stay of re-
24 moval or abeyance of removal proceedings
25 under this section are removed.

1 “(B) PROTECTIONS FOR VICTIMS OF
2 CRIME, LABOR, AND EMPLOYMENT VIOLA-
3 TIONS.—

4 “(i) STAY OF REMOVAL OR ABEYANCE
5 OF REMOVAL PROCEEDINGS.—An alien
6 against whom removal proceedings have
7 been initiated under chapter 4 of title II,
8 who has filed a workplace claim, who is a
9 material witness in any pending or antici-
10 pated proceeding involving a bona fide
11 workplace claim or civil claim arising from
12 criminal activity, or who has filed for relief
13 under section 101(a)(15)(U), shall be enti-
14 tled to a stay of removal or an abeyance of
15 removal proceedings and to employment
16 authorization until the resolution of the
17 workplace claim or the denial of relief
18 under section 101(a)(15)(U) after exhaus-
19 tion of administrative or judicial appeals,
20 whichever is later.

21 “(ii) DURATION.—Any stay of re-
22 moval or abeyance of removal proceedings
23 and employment authorization issued pur-
24 suant to clause (i) shall remain valid until
25 the resolution of the workplace claim or

1 the denial of relief under section
2 101(a)(15)(U) after the exhaustion of ad-
3 ministrative or judicial appeals, and shall
4 be extended by the Secretary of Homeland
5 Security for a period of not longer than 10
6 additional years upon determining that—

7 “(I) such relief would enable the
8 alien asserting a workplace claim or
9 civil claim arising from criminal activ-
10 ity, or assisting in investigation or
11 prosecution of criminal activity, to
12 pursue the matter to resolution, ac-
13 cording to any agency administering
14 any statute underlying these claims or
15 any other credible evidence;

16 “(II) the deterrent goals of any
17 statute underlying a workplace claim,
18 criminal activity, or civil claim arising
19 from criminal activity would be
20 served, according to any agency ad-
21 ministering such a statute or any
22 other credible evidence; or

23 “(III) such extension would oth-
24 erwise further the interests of justice.

1 “(iii) DEFINITIONS.—In this para-
2 graph:

3 “(I) CIVIL CLAIM ARISING FROM
4 CRIMINAL ACTIVITY.—The term ‘civil
5 claim arising from criminal activity’
6 means any written or oral claim,
7 charge, complaint, or grievance filed
8 with, communicated to, or submitted
9 to a Federal, State, or local agency or
10 court related to the violation of appli-
11 cable Federal, State, and local laws
12 arising from criminal activity de-
13 scribed in section 101(a)(15)(U)(iii).

14 “(II) MATERIAL WITNESS.—Not-
15 withstanding any other provision of
16 law, the term ‘material witness’ means
17 an individual who presents a declara-
18 tion from an attorney investigating,
19 prosecuting, or defending the claim or
20 from the presiding officer overseeing
21 the claim attesting that, to the best of
22 the declarant’s knowledge and belief,
23 reasonable cause exists to believe that
24 the testimony of the individual will be

1 relevant to the outcome of the work-
2 place claim.

3 “(III) WORKPLACE CLAIM.—The
4 term ‘workplace claim’ means any
5 written or oral claim, charge, com-
6 plaint, or grievance filed with, commu-
7 nicated to, or submitted to the em-
8 ployer, a Federal, State, or local agen-
9 cy or court, or an employee represent-
10 ative related to the workplace injury
11 or illness or to the violation of appli-
12 cable Federal, State, and local labor
13 laws, including laws concerning wages
14 and hours, labor relations, family and
15 medical leave, occupational health and
16 safety, civil rights, or nondiscrimina-
17 tion.”.

18 (c) CONTINUED APPLICATION OF WORKFORCE AND
19 LABOR PROTECTION REMEDIES.—Section 274A(e) of the
20 Immigration and Nationality Act (8 U.S.C. 1324a(e)), as
21 amended by subsection (b), is further amended by adding
22 at the end the following:

23 “(11) RIGHTS, REMEDIES, AND RELIEF.—Not-
24 withstanding an employee’s status as an unauthor-
25 ized noncitizen during the time of relevant employ-

1 ment or during the back pay period or the failure of
 2 the employer or employee to comply with the re-
 3 quirements under this section or with any other pro-
 4 vision of Federal law relating to the unlawful em-
 5 ployment of noncitizens—

6 “(A) all rights, remedies, and relief pro-
 7 vided under any Federal, State, or local law re-
 8 lating to workplace rights, including reinstatement
 9 and back pay, are available to such em-
 10 ployee; and

11 “(B) a court may not prohibit such an em-
 12 ployee from pursuing other causes of action giv-
 13 ing rise to liability in a civil action.”.

14 **TITLE VI—GENERAL** 15 **PROVISIONS**

16 **SEC. 601. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated such sums
 18 as are necessary to carry out this Act and the amendments
 19 made by this Act.

20 **SEC. 602. SUPPLEMENTAL APPROPRIATION.**

21 In any month in which the number of unaccompanied
 22 children referred to the Department of Health and Human
 23 Services pursuant to section 462 of the Homeland Secu-
 24 rity Act of 2002 (6 U.S.C. 279) and section 235 of the
 25 William Wilberforce Trafficking Victims Protection Reau-

1 thorization Act of 2008 (8 U.S.C. 1232) exceeds 10,000,
2 as determined by the Secretary of Health and Human
3 Services, an additional \$30,000,000, to remain available
4 until expended, shall be made available for obligation for
5 every 500 unaccompanied children above that level (in-
6 cluding a pro rata amount for any increment less than
7 500), for carrying out such sections 462 and 235 and the
8 activities authorized by this Act and the amendments
9 made by this Act.

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